

Exhibit 8

Barbara Mart
June 29, 2018

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Page 1			Page 3		
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF RHODE ISLAND			EXHIBITS MARKED DESCRIPTION		
SHEET METAL WORKERS LOCAL NO. 20) WELFARE AND BENEFIT FUND and) INDIANA CARPENTERS WELFARE FUND,) on behalf of themselves and all) others similarly situated,)) Plaintiffs,)) v.) No. 1:16-cv-00046-S			Exhibit 8 January 29, 2009, email CVSSM-0025740 66		
CVS PHARMACY, INC., et al.,)) Defendants.)			Exhibit 9 July 2, 2008, email string CVSSM-0025661-25662 74		
PLUMBERS WELFARE FUND, LOCAL 130,) U.A., on behalf of itself and all) others similarly,)) v.) No. 1:16-cv-00447-S			Exhibit 10 January 29, 2009, email CVSSM-0025739 77		
CVS PHARMACY, INC., et al.,)) Defendants.)			Exhibit 11 January 29, 2009, email string CVSSM-0025741-25742 79		
VIDEOTAPED DEPOSITION OF BARBARA MART Phoenix, Arizona June 29, 2018			Exhibit 12 November 30, 2009, email string CVSSM-0025668-25669 83		
Prepared by: CINDY MAHONEY, RPR, RMR Certified Court Reporter Certificate No. 50680			Exhibit 13 June 14, 2010, email string CVSSM-0025743-25747 90		
			Exhibit 14 June 21, 2010, email string CVSSM-0025718-25722 95		
			Exhibit 15 June 23, 2010, email string CVSSM-0025748-25752 97		
			Exhibit 16 June 28, 2012, email string CVSSM-0025687-25691 99		
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1 INDEX 2 WITNESS PAGE 3 BARBARA MART 4 Examination by Mr. Belden 6 5 Examination by Ms. Connolly 113 6 Further Examination by Mr. Belden 133			1 THE VIDEOTAPED DEPOSITION OF BARBARA MART 2 commences at 9:27 a.m. on June 29, 2018, at the law 3 offices of Ogletree, Deakins, Nash, Smoak & Stewart, 4 P.C., 2415 East Camelback Road, Suite 800, Phoenix, 5 Arizona, before Cindy Mahoney, RPR, RMR, Arizona 6 Certified Court Reporter No. 50680. 7 8		
9 EXHIBITS MARKED 10 EXHIBIT DESCRIPTION PAGE 11 Exhibit 1 Nebraska Medicaid General Information, Fiscal Year 2007, Nebraska Department of Health and Human Services 18 12 Exhibit 2 Manual Letter #34-2012, Rev. March 28, 2012, Chapter 16-000 Pharmacy Services 31 13 14 15 Exhibit 3 October 20, 2006, email string CVSSM-0025726-25729 40 16 17 Exhibit 4 CVS/pharmacy Health Savings Pass Enrollment Form 48 18 Exhibit 5 December 2, 2008, email string CVSSM-0025730-25732 54 19 20 Exhibit 6 December 20, 2008, email string CVSSM-0025755-25756 60 21 22 Exhibit 7 December 3, 2008, email string CVSSM-0025737-25738 62 23 24 25			9 APPEARANCES: 10 For the Plaintiffs: 11 HAGENS BERMAN SOBOL SHAPIRO LLP By: Jennifer Fountain Connolly, Esq. 1701 Pennsylvania Avenue, NW, Suite 200 Washington, D.C. 20006 202-248-5403 jenniferc@hbsslaw.com 11 12 13 14 15 For the Defendants CVS Pharmacy, Inc., and Caremark, LLC: 16 WILLIAMS & CONNOLLY LLP By: Bob Belden, Esq. Grant A. Geyerman, Esq. 725 Twelfth St., N.W. Washington, DC 20005 202-434-5000 rhelden@wc.com ggeyerman@wc.com 17 18 19 20 21 22 ALSO PRESENT: 23 Tom Tracy, Videographer 24 25		

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<p>1 THE VIDEOGRAPHER: We are now on the 2 record. The time is approximately 9:27 a.m. This is a 3 videotaped deposition of Barbara Mart in the matter of 4 Steel [sic] Metal Workers, et al., versus CVS Pharmacy. 5 It's being held in the District Court of Rhode Island.</p> <p>6 This deposition is being held at 2415 East 7 Camelback Road, Suite 800, Phoenix, Arizona 85016 on 8 June 29, 2018. My name is Tom Tracy. I'm the 9 videographer representing Stratos Legal. The court 10 reporter's Cindy Mahoney, also on behalf of Stratos 11 Legal.</p> <p>12 Counsel, will you please identify yourself and 13 whom you represent for the record at this time, starting 14 with the plaintiffs' counsel.</p> <p>15 MS. CONNOLLY: Jennifer Connolly from 16 Hagens Berman Sobol Shapiro on behalf of the plaintiffs.</p> <p>17 MR. BELDEN: Bob Belden and Grant Geyerman 18 of Williams & Connolly on behalf of CVS Pharmacy, Inc., 19 and Caremark, LLC, defendants.</p> <p>20 ///</p> <p>21 ///</p> <p>22 ///</p> <p>23 ///</p> <p>24 ///</p> <p>25 ///</p>	<p>1 When I'm asking a question, I'd like you to try 2 and wait until I get finished to answer. We want to 3 keep the record clean for the court reporter, and we 4 want to give plaintiffs' counsel an opportunity to 5 object. Do you understand that?</p> <p>6 A Yes.</p> <p>7 Q Okay. And I think it's natural in conversation 8 to kind of verbally signal your answer or nod, but to 9 the best that you can today, try to answer verbally. Okay?</p> <p>11 A Okay.</p> <p>12 Q If I ask you a question and you don't 13 understand what I've said, please let me know and I'll 14 try to reformulate the question. Okay?</p> <p>15 A Okay.</p> <p>16 Q I'm entitled to answers to my questions. 17 Plaintiffs' counsel might object to my question, but you 18 should still go ahead and answer it. Okay?</p> <p>19 A Okay.</p> <p>20 Q And you're running the show today. We can take 21 a break anytime you'd like, but I just ask that if 22 there's a question outstanding, that you answer the 23 question before we go on a break. Okay?</p> <p>24 A All right.</p> <p>25 Q All right. Could you summarize your</p>
<p>1 BARBARA MART, 2 the witness herein, being first duly sworn, 3 was examined and testified as follows:</p> <p>4</p> <p>5 EXAMINATION</p> <p>6 BY MR. BELDEN:</p> <p>7 Q Good morning, Ms. Mart.</p> <p>8 A Good morning.</p> <p>9 Q How are you?</p> <p>10 A I'm fine.</p> <p>11 Q Could you state and spell your full name for 12 the record, please.</p> <p>13 A Barbara, B-a-r-b-a-r-a, Mart, M-a-r-t.</p> <p>14 Q And what is your address?</p> <p>15 A 3609 West Lane Avenue in Phoenix, 8 -- ZIP is 16 85051.</p> <p>17 Q Okay. And are you currently employed?</p> <p>18 A I'm retired.</p> <p>19 Q Okay. I represent CVS Pharmacy and Caremark. 20 And I'm going to be asking you some questions today, and 21 you're going to be answering them. Do you understand 22 that?</p> <p>23 A Yes.</p> <p>24 Q Okay. So just some basics before we get 25 started.</p>	<p>1 educational background after your high school 2 graduation?</p> <p>3 A I attended the University of Nebraska, 4 graduated from the University of Nebraska Medical Center 5 with a bachelor's in pharmacy.</p> <p>6 Q And what year was that?</p> <p>7 A That was in 1973.</p> <p>8 Q Okay. And do you have any other certifications 9 or degrees?</p> <p>10 A No. I'm a registered pharmacist.</p> <p>11 Q Okay. What state are you a registered 12 pharmacist in?</p> <p>13 A I'm registered in Nebraska and Missouri.</p> <p>14 Q And starting with Nebraska, when were you -- 15 when were you first registered there?</p> <p>16 A In 1974.</p> <p>17 Q And what about Missouri?</p> <p>18 A Either 2015 or 2016. I'm not positive. I 19 think it was 2015.</p> <p>20 Q Okay. Are you currently licensed in Nebraska?</p> <p>21 A Yes.</p> <p>22 Q And what about Missouri?</p> <p>23 A Yes.</p> <p>24 Q So starting from your graduation from the 25 University of Nebraska, could you walk me through your</p>

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<p>1 A Yes.</p> <p>2 Q Will you understand if I refer to those as</p> <p>3 PBMs?</p> <p>4 A Yes.</p> <p>5 Q Is Mercer a PBM?</p> <p>6 A No.</p> <p>7 Q Does Mercer operate pharmacies?</p> <p>8 A No.</p> <p>9 Q What types of entities do -- what types of</p> <p>10 entities does Mercer serve?</p> <p>11 MS. CONNOLLY: Objection to form,</p> <p>12 foundation.</p> <p>13 THE WITNESS: Mercer in -- in general</p> <p>14 works with a lot of employer groups. They have a</p> <p>15 commercial division that they work with a lot of</p> <p>16 employer groups in assisting the employer groups in</p> <p>17 managing the benefit, evaluating contracts with PBMs.</p> <p>18 There's a whole host of things they do.</p> <p>19 The division I was working in specializes in</p> <p>20 working with government programs. The vast majority of</p> <p>21 those programs are state Medicaid programs. And we --</p> <p>22 they do a number of things. As I said, they help the</p> <p>23 states set rates for the managed care programs. They</p> <p>24 also do a lot of consulting regarding analysis of</p> <p>25 programs and helping states identify areas where they</p>	<p>1 helps their clients look at opportunities to become more</p> <p>2 efficient?</p> <p>3 A Yes.</p> <p>4 Q Does that mean that they help their clients</p> <p>5 look for opportunities to save money?</p> <p>6 A Yes.</p> <p>7 MS. CONNOLLY: Objection; form and</p> <p>8 foundation.</p> <p>9 BY MR. BELDEN:</p> <p>10 Q Remember to try and give Ms. Connolly an</p> <p>11 opportunity to object.</p> <p>12 A I'm sorry.</p> <p>13 Q That's okay.</p> <p>14 MR. GEYERMAN: You might want to keep your</p> <p>15 voice up a little bit, ma'am.</p> <p>16 THE WITNESS: Okay.</p> <p>17 BY MR. BELDEN:</p> <p>18 Q So does -- does Mercer work with pharmacies?</p> <p>19 MS. CONNOLLY: Objection to form and</p> <p>20 foundation. I'm also just going to put this objection</p> <p>21 on the record that I have correspondence from Mercer's</p> <p>22 counsel that you guys are aware of in which he</p> <p>23 specifically has an agreement with defendants that she</p> <p>24 will not be testifying regarding her employment at</p> <p>25 Mercer or the role of Mercer. And he has instructed</p>
<p>1 could be more efficient.</p> <p>2 BY MR. BELDEN:</p> <p>3 Q So in that answer you said that it evaluates</p> <p>4 contracts with PBMs?</p> <p>5 MS. CONNOLLY: Objection to form --</p> <p>6 THE WITNESS: Yes.</p> <p>7 MS. CONNOLLY: -- foundation.</p> <p>8 BY MR. BELDEN:</p> <p>9 Q Does -- does Mercer work with PBMs in any other</p> <p>10 capacity?</p> <p>11 MS. CONNOLLY: Objection to form and</p> <p>12 foundation.</p> <p>13 THE WITNESS: I don't -- I don't</p> <p>14 understand that question. What do you mean?</p> <p>15 BY MR. BELDEN:</p> <p>16 Q Do -- so maybe a better question is: Does --</p> <p>17 does Mercer interact with PBMs outside of evaluating</p> <p>18 contracts on behalf of their -- on behalf of Mercer's</p> <p>19 clients?</p> <p>20 MS. CONNOLLY: Objection to form and</p> <p>21 foundation.</p> <p>22 THE WITNESS: Yes, they do. They have an</p> <p>23 audit division that -- that audits PBMs.</p> <p>24 BY MR. BELDEN:</p> <p>25 Q So just stepping back, you said that Mercer</p>	<p>1 Ms. Mart if the testimony goes in that direction that</p> <p>2 she needs to get on the phone with counsel from Mercer.</p> <p>3 So I'm going to allow you a little bit of</p> <p>4 foundation just to establish her areas of experience,</p> <p>5 but I think you're walking a fine line. And I</p> <p>6 personally will interrupt this -- this deposition and</p> <p>7 get Mr. McKenzie on the phone if this goes any further.</p> <p>8 MR. GEYERMAN: And I did have</p> <p>9 conversations with Mr. McKenzie, and I have his email as</p> <p>10 well. And we fully intend -- I think he's just asking</p> <p>11 background as part of who these different entities are</p> <p>12 that she worked for, so we don't intend to do anything</p> <p>13 more than that.</p> <p>14 MS. CONNOLLY: Okay. Like I said, I think</p> <p>15 he's starting to walk a line, so I just wanted to let</p> <p>16 you know that if it gets any further, that we'll have an</p> <p>17 issue.</p> <p>18 MR. BELDEN: Understood.</p> <p>19 BY MR. BELDEN:</p> <p>20 Q What was your title with Mercer?</p> <p>21 A Senior associate.</p> <p>22 Q And was that your title from the time that you</p> <p>23 joined in 2012 until you left?</p> <p>24 A Yes.</p> <p>25 Q And what were your responsibilities at a</p>

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<p>1 general level as a senior associate for Mercer?</p> <p>2 A Assisting in these analyses that Mercer does.</p> <p>3 Q And why did you leave Mercer?</p> <p>4 A I retired.</p> <p>5 Q Okay. You and I met for the first time</p> <p>6 yesterday; correct?</p> <p>7 A That's right.</p> <p>8 Q And I showed you some documents about generic</p> <p>9 drug programs that refreshed your recollect -- your</p> <p>10 recollection about your time with Nebraska Medicaid;</p> <p>11 right?</p> <p>12 A Yes.</p> <p>13 Q And do you understand that it is your appearing</p> <p>14 on those documents that has caused us to subpoena you</p> <p>15 for this deposition today?</p> <p>16 A Yes.</p> <p>17 Q And you understand that your responsibility</p> <p>18 today is just to testify truthfully to the best of your</p> <p>19 ability; right?</p> <p>20 A Right.</p> <p>21 Q Are you being compensated for your time</p> <p>22 yesterday and today?</p> <p>23 A Yes, I am.</p> <p>24 Q And what's the rate?</p> <p>25 A \$100 an hour.</p>	<p>1 the pharmacy context?</p> <p>2 A Yes.</p> <p>3 Q And what does that term mean to you?</p> <p>4 A That is the processing of pharmacy claims.</p> <p>5 Q Who -- who processes the claims in adjudication</p> <p>6 generally?</p> <p>7 A Usually it's a pharmacy benefit management</p> <p>8 company.</p> <p>9 Q And what kind of determinations get made during</p> <p>10 adjudication?</p> <p>11 MS. CONNOLLY: Objection to form,</p> <p>12 foundation.</p> <p>13 THE WITNESS: The -- the eligibility of</p> <p>14 the patient is reviewed, a determination is made as to</p> <p>15 whether or not the drug is covered, and the pricing is</p> <p>16 calculated. After all that's done, a response is sent</p> <p>17 back to the pharmacy telling the pharmacy whether or not</p> <p>18 the claim is going to be paid and how much the pharmacy</p> <p>19 will be paid from the PBM and how much the pharmacy</p> <p>20 should collect from the patient as copay or coinsurance.</p> <p>21 BY MR. BELDEN:</p> <p>22 Q Okay. What kinds of transactions involve</p> <p>23 adjudication?</p> <p>24 A I don't know what you mean.</p> <p>25 Q So does adjudication occur in a -- when a cash</p>
<p style="text-align: center;">Page 26</p> <p>1 Q And where does that rate come from?</p> <p>2 A It's a -- rather low in the consulting field,</p> <p>3 but it's basically based on typical consulting rates.</p> <p>4 Q Are you familiar with the term usual and</p> <p>5 customary price?</p> <p>6 A Yes.</p> <p>7 Q What does that term mean to you?</p> <p>8 A It's usually part of a -- an agreement between</p> <p>9 a pharmacy and a payer, and it will be defined in the</p> <p>10 contract in general. It's usually the cash price, the</p> <p>11 lowest cash price that a pharmacy offers.</p> <p>12 Q Okay. From your years of working in or around</p> <p>13 the pharmacy industry, do you understand that some</p> <p>14 consumers purchase drugs at a pharmacy without using any</p> <p>15 form of pharmacy benefit?</p> <p>16 A Yes.</p> <p>17 Q And what do you call those customers?</p> <p>18 A Cash customers.</p> <p>19 Q And you mentioned cash price before. Do you</p> <p>20 remember that?</p> <p>21 A Yes.</p> <p>22 Q Is the cash price the price that the pharmacy</p> <p>23 would offer to those cash customers?</p> <p>24 A Yes.</p> <p>25 Q Are you familiar with the term adjudication in</p>	<p style="text-align: center;">Page 28</p> <p>1 customer purchases a prescription generally?</p> <p>2 A Usually --</p> <p>3 MS. CONNOLLY: Object to the form.</p> <p>4 THE WITNESS: -- not.</p> <p>5 BY MR. BELDEN:</p> <p>6 Q Does it occur when a third party is paying for</p> <p>7 the prescription?</p> <p>8 A Yes.</p> <p>9 Q And does adjudication involve a -- a pharmacy's</p> <p>10 U&C price?</p> <p>11 MS. CONNOLLY: Objection to form.</p> <p>12 THE WITNESS: It usually does.</p> <p>13 BY MR. BELDEN:</p> <p>14 Q And how -- how is it used in adjudication or</p> <p>15 how is it involved in adjudication?</p> <p>16 A It depends on the -- on the claim type and</p> <p>17 the -- usually insurance contracts and employer group</p> <p>18 contracts define the payment methodology as lower -- the</p> <p>19 lowest of a group of calculated prices. In -- in the</p> <p>20 case -- there are some benefit cards where the PBM</p> <p>21 actually doesn't pay anything on the claim. It just</p> <p>22 entitles the patient to the benefit of the PBM's price</p> <p>23 negotiation. So in those cases, U&C isn't necessarily</p> <p>24 used.</p> <p>25 Q So to -- I just want to make sure that I have</p>

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<p>1 it clear.</p> <p>2 Sometimes a pharmacy's U&C price can be used to 3 determine the reimbursement the pharmacy will receive on 4 a prescription; is that correct?</p> <p>5 A Yes.</p> <p>6 Q I know we discussed this a little bit at the 7 beginning, but what is Medicaid?</p> <p>8 A Medicaid --</p> <p>9 MS. CONNOLLY: Objection to form.</p> <p>10 THE WITNESS: Medicaid is a joint 11 agreement between the federal government and the 12 individual states to provide medical coverage for people 13 who can't afford medical coverage as well as children 14 and disabled.</p> <p>15 BY MR. BELDEN:</p> <p>16 Q Who -- who designs the Medicaid benefit?</p> <p>17 A There are overarching federal regulations that 18 define the Medicaid benefit, but each state is 19 responsible for administering the program within that 20 state.</p> <p>21 Q And is -- is prescription drug coverage 22 provided by most states' Medicaid programs?</p> <p>23 A Yes, it is.</p> <p>24 Q Was prescription drug coverage provided by 25 Nebraska's Medicaid program?</p>	<p>1 calculation that includes the -- that contracted -- or 2 that calculated price as well as the -- a comparison to 3 the pharmacy-submitted usual and customary and also 4 another field on the claim called submitted cost, which 5 is populated by the pharmacy, and it prices at the lower 6 of those.</p> <p>7 Q Okay. Are you familiar with the term lower of 8 reimbursement?</p> <p>9 A Yes.</p> <p>10 Q During your tenure with Nebraska Medicaid, did 11 Nebraska Medicaid utilize a lower of reimbursement 12 formula?</p> <p>13 A Yes.</p> <p>14 (The document was marked as Exhibit 2 for 15 identification.)</p> <p>16 BY MR. BELDEN:</p> <p>17 Q I'm going to hand you what's being marked as 18 Exhibit Number 2. What is this document?</p> <p>19 A This is a portion of the Medicaid regulations. 20 Looks like it's the pharmacy services portion.</p> <p>21 Q When you say "Medicaid regulations," are you 22 referring to --</p> <p>23 A Yes.</p> <p>24 Q -- Title 471 of the Nebraska Administrative 25 Code?</p>
<p>1 A Yes.</p> <p>2 Q And who pays -- or sorry.</p> <p>3 Who reimburses pharmacies for prescriptions 4 that the pharmacy fills through the Medicaid program?</p> <p>5 A The state pays the pharmacy.</p> <p>6 Q And sorry, just to back up.</p> <p>7 Are pharmacies required to enroll with the 8 state Medicaid program?</p> <p>9 A Yes, they are.</p> <p>10 MS. CONNOLLY: Objection; form, 11 foundation. When you're speaking of Medicaid, are you 12 talking about Nebraska Medicaid or -- it would be 13 helpful if you could be specific.</p> <p>14 BY MR. BELDEN:</p> <p>15 Q Okay. Does Nebraska Medicaid require 16 pharmacies to enroll with Nebraska Medicaid before the 17 pharmacy can?</p> <p>18 A Yes. They -- they have to have a provider 19 agreement on file.</p> <p>20 Q Okay. And during your tenure with Nebraska 21 Medicaid, how did Nebraska Medicaid reimburse pharmacies 22 for dispensing prescriptions to Medicaid beneficiaries?</p> <p>23 A Reimbursement originally was based on average 24 wholesale price minus a set percent plus a dispensing 25 fee or it -- it was a -- the reimbursement formula is a</p>	<p>1 A Yes.</p> <p>2 Q So on the next to last page of this document -- 3 I'm sorry it doesn't have page numbers -- do you see a 4 section that's entitled, 16-005.04, Payment methodology?</p> <p>5 A Yes.</p> <p>6 Q Does this appear to be Nebraska's lower-of 7 methodology?</p> <p>8 MS. CONNOLLY: Objection to form.</p> <p>9 THE WITNESS: Yes.</p> <p>10 BY MR. BELDEN:</p> <p>11 Q What is the usual and customary charge to the 12 public in subsection A?</p> <p>13 A I think that's -- is that -- it should be 14 defined later on -- or somewhere in -- it's actually 15 defined, isn't it?</p> <p>16 Q So if you --</p> <p>17 A Is it in this section?</p> <p>18 Q If you turn back one page. And do you see near 19 the bottom of that page section 16-005.03, Pricing 20 instructions?</p> <p>21 A Yes.</p> <p>22 Q And that section reads, Pharmacists will not, 23 under any circumstances, submit charges to the 24 department which exceed the pharmacy's usual and 25 customary charge.</p>

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<p>1 need the pricing information. 2 BY MS. CONNOLLY: 3 Q So when you're saying -- when you testified 4 that a payer can run reports to validate claims 5 submitted by a pharmacy, that would include if a -- if a 6 payer were going to analyze U&C prices, for example, 7 they would have to receive those U&C prices from the 8 pharmacy in order to be able to run those reports; 9 right? 10 A Yes. 11 MR. BELDEN: Objection -- objection to 12 form, misstates the witness's testimony. 13 BY MS. CONNOLLY: 14 Q I wanted to just do a few foundational 15 questions for you. 16 So you testified previously that Nebraska 17 Medicaid adjudicated the claims submitted by pharmacies; 18 is that right? 19 MR. BELDEN: Objection to form, 20 mischaracterizes the testimony. 21 THE WITNESS: Nebraska Medicaid didn't 22 specifically adjudicate the claims. That was done by a 23 claims processor. 24 BY MS. CONNOLLY: 25 Q A claims processor that was used by Nebraska</p>	<p>1 Q And are you aware in a private payer context of 2 the entities that perform that function? 3 A Yes. 4 Q And what are those entities? 5 A They are the PBMs or their -- the PBMs, most of 6 them have audit divisions that do. 7 Q If you could pull out Exhibit 4 very briefly. 8 That's the HSP brochure. 9 A Okay. 10 Q I just wanted to know if you recall whether you 11 received this brochure at the time that you were 12 employed at Nebraska Medicaid? 13 A I don't recall seeing this. 14 Q Aside from the AMPAA emails that we've been 15 discussing today, have you personally ever had any 16 discussions with private health plans regarding subject 17 matters covered in those emails? 18 MR. BELDEN: Object to form. 19 THE WITNESS: No. 20 BY MS. CONNOLLY: 21 Q Do you agree with the proposition that a 22 pharmacy's relationship with state Medicaid programs is 23 fundamentally different from its relationship with its 24 commercial trading partners? 25 MR. BELDEN: Object to form.</p>
<p>1 Medicaid; is that correct? 2 A That's correct. 3 Q Are you aware of the type of entities that 4 adjudicate claims from pharmacies in a private payer 5 context? 6 MR. BELDEN: Objection to form. 7 THE WITNESS: Yes. 8 BY MS. CONNOLLY: 9 Q And what are those entities? 10 A The -- you mean the PBMs? Is that what you're 11 referring to? The pharmacy benefit management companies 12 are. 13 Q Yes. Yes. 14 You also testified that certain Medicaid 15 agencies are able to and did, in fact, perform audits of 16 claims submitted by pharmacies; is that right? 17 MR. BELDEN: Objection; misstates the 18 witness's testimony. 19 THE WITNESS: Would you repeat the 20 question? 21 BY MS. CONNOLLY: 22 Q You previously testified that Medicaid agencies 23 sometimes perform audits of claims data submitted by 24 pharmacies; is that correct? 25 A Yes, that's correct.</p>	<p>1 THE WITNESS: Yes. 2 BY MS. CONNOLLY: 3 Q Why? 4 A The -- the contract is far different. In 5 Medicaid, they basically sign an agreement that says, I 6 agree this is the reimbursement. And I don't know that 7 they even say this is the reimbursement. It says, I 8 agree to accept the payment from Medicaid as payment in 9 full and agree to adhere to all of the rules and 10 regulations, whereas in -- on the commercial side, 11 there's very lengthy contracts that spell out all kinds 12 of things regarding the practice of business. 13 Q And part of the practice of business that is 14 agreed to is the definition of usual and customary 15 price? 16 MR. BELDEN: Objection to form. 17 THE WITNESS: I haven't seen one of those 18 contracts for a long time, but as I recall, there is a 19 definition in there -- in the contract of usual and 20 customary price. I -- just as there is in -- in the 21 Medicaid regulations, some sort of a definition of usual 22 and customary price. 23 BY MS. CONNOLLY: 24 Q So in essence, the -- the contracts in the 25 private context with regard to defining U&C serve the</p>

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<p>1 function that Medicaid regulations do?</p> <p>2 MR. BELDEN: Objection to form.</p> <p>3 THE WITNESS: Yes.</p> <p>4 BY MS. CONNOLLY:</p> <p>5 Q That, of course, does not mean that U&C is</p> <p>6 defined in private contracts the same way it is in</p> <p>7 Medicaid regulations; is that right?</p> <p>8 MR. BELDEN: Objection to form.</p> <p>9 THE WITNESS: Yes, I would agree.</p> <p>10 MS. CONNOLLY: I have no further questions</p> <p>11 subject to redirect from counsel, so thank you for your</p> <p>12 time.</p> <p>13 THE WITNESS: Thank you.</p> <p>14</p> <p>15 FURTHER EXAMINATION</p> <p>16 BY MR. BELDEN:</p> <p>17 Q Just a few questions here.</p> <p>18 Has the content of your testimony been</p> <p>19 influenced in any way by the fact that you were</p> <p>20 compensated for your time yesterday and today?</p> <p>21 A Absolutely not.</p> <p>22 Q And going back to Exhibit 2, which is the --</p> <p>23 A There it is.</p> <p>24 Q -- the next to last page -- sorry, third from</p> <p>25 the last, section 16-005.03. Do you see that?</p>	<p>1 STATE OF ARIZONA) COUNTY OF MARICOPA)</p> <p>2</p> <p>3 BE IT KNOWN that the foregoing deposition was taken</p> <p>4 by me pursuant to stipulation of counsel; that I was</p> <p>5 then and there a Certified Court Reporter in the State</p> <p>6 of Arizona, and by virtue hereof authorized to</p> <p>7 administer an oath; that the witness before testifying</p> <p>8 was duly sworn by me to testify to the whole truth;</p> <p>9 deposition review and signature was not requested; that</p> <p>10 the questions propounded by counsel and the answers of</p> <p>11 the witness thereto were taken down by me in shorthand</p> <p>12 and thereafter transcribed into typewriting under my</p> <p>13 direction; that the foregoing pages are a full, true and</p> <p>14 accurate transcript of all the proceedings had upon the</p> <p>15 taking of said deposition, all done to the best of my</p> <p>16 skill and ability.</p> <p>17 I FURTHER CERTIFY that I am in no way related</p> <p>18 to nor employed by any parties hereto; nor am I in any</p> <p>19 way interested in the outcome thereof.</p> <p>20 Dated at Phoenix, Arizona, this 10th day of</p> <p>21 July, 2018.</p> <p>22</p> <p>23</p> <p>24 CINDY MAHONEY, RPR, RMR NO. 50680</p> <p>25</p>
<p style="text-align: center;">Page 134</p> <p>1 A Yes.</p> <p>2 Q Was this section substant -- substance --</p> <p>3 sorry. Strike that.</p> <p>4 Was this section substantively the same as the</p> <p>5 U&C section that was in effect during your tenure with</p> <p>6 Nebraska Medicaid?</p> <p>7 A I believe so, yes.</p> <p>8 Q And just one final question.</p> <p>9 Do consulting companies like Mercer perform</p> <p>10 audits of -- of -- pharmacies?</p> <p>11 A I prefer not to answer that in the context of</p> <p>12 Mercer specifically, but I believe that some consulting</p> <p>13 companies do have audit divisions.</p> <p>14 Q So a payer who wished to audit a pharmacy could</p> <p>15 hire a consultant to do so; is that fair?</p> <p>16 MS. CONNOLLY: Objection to form.</p> <p>17 THE WITNESS: Yes.</p> <p>18 MR. BELDEN: No further questions.</p> <p>19 MS. CONNOLLY: None for me. Thank you.</p> <p>20 THE VIDEOGRAPHER: This concludes the</p> <p>21 videotaped deposition. Time is approximately 12:55 p.m.</p> <p>22 (The deposition concluded at 12:55 p.m.)</p> <p>23</p> <p>24 (Signature Not Requested)</p> <p>25</p> <p style="text-align: center;">BARBARA MART</p>	